

April 12, 1996

OFFICE OF THE HEARING EXAMINER  
KING COUNTY, WASHINGTON  
700 Central Building  
810 Third Avenue  
Seattle, Washington 98104

DECISION ON APPLICATION FOR REASONABLE USE EXCEPTION.

SUBJECT: Department of Development and Environmental Services File No. L96RU001

**JOHN BUNN**  
Reasonable Use Exception Application

Property generally located south of Southeast Edgewick Road, at the terminus of 453rd Avenue Southeast (17411 453rd Avenue Southeast)

SUMMARY OF RECOMMENDATIONS:

Division's Preliminary:	Approve, subject to conditions
Division's Final:	Approve, subject to conditions
Examiner:	Approve, subject to conditions

PRELIMINARY REPORT:

The Land Use Services Division's Preliminary Report on Item No. L96RU001 was received by the Examiner on March 25, 1996.

PUBLIC HEARING:

After reviewing the Land Use Services Division's Report and examining available information on file with the application, the Examiner conducted a public hearing on the subject as follows:

The hearing on Item No. L96RU001 was opened by the Examiner at 1:30 p.m., April 8, 1996, in Hearing Room No. 1, Department of Development and Environmental Services, 3600 - 136th Place S.E., Suite A, Bellevue, Washington, and closed at 3:15 p.m. Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the Office of the King County Hearing Examiner.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:
- |                    |   |
|--------------------|---|
| Owners/Applicants: | John Bunn and Jeanne Bunn<br>22729 NE 12th Place<br>Redmond, WA 98053<br>Phone: 936-2357  |
| Location:          | Property generally located south of Southeast Edgewick Road, at the terminus of 453rd Avenue Southeast (17411 453rd Avenue Southeast) |
| STR:               | SW 25-23-8  |
| Zoning:            | RA-10   |
| Acreage:           | 1.62 acres  |
| Request:           | A Reasonable Use Exception from the sensitive areas   |

provision of KCC 21A.24 regarding steep slopes

Sensitive Area Types: Steep slopes and erosion hazard

2. Sections A through E, at pages 1-6, of the King County Land Use Services Division Preliminary Report to the King County Hearing Examiner for the April 8, 1996, public hearing are found to be correct and are incorporated herein by this reference. The said preliminary report is Exhibit No. 1 in the record of this proceeding.
3. Adjacent and nearby property owners are concerned with the possible impacts of development on this property from surface water runoff and septic system operation. These concerns are relevant to the decision on this application to the extent that one of the criteria for a reasonable use exception is that the proposed development not pose an unreasonable threat to the public health, safety or welfare on or off the proposal site. KCC 21A.24.070.B.2.c.
4. The preponderance of the evidence indicates that uncontrolled surface water runoff from the rough-graded road constructed on the site has added to the rate and duration of the flow of water onto the adjacent property to the south and downstream from the site, and has caused increased erosion. However, construction of the proposed driveway through the steep slope area, with controlled drainage in accordance with a design to be prepared by the Applicant's engineer and reviewed and approved by King County, will alleviate the present condition and can reduce the peak rate of runoff from the site to a level not greater than that from the undeveloped site. It is the responsibility of the Department of Development and Environmental Services to make the final determination with respect to drainage plans for site development. However, it is appropriate for the Department to consider the comments and suggestions of adjacent and downstream property owners as well as those of the Applicant.
5. Adjacent and nearby property owners have made known to the King County Department of Public Health the concerns of those property owners with respect to sewage disposal. The preponderance of the evidence indicates that there are areas on the site which are suitable for onsite disposal of sewage, and that current requirements of King County and the State of Washington for onsite sewage disposal can be met.
6. The steepness and extent of slopes on the site only slightly exceed the criteria which require imposition of the controls established by the King County Sensitive Areas Code. However, these criteria are legislatively established as a matter of King County policy. When the criteria are exceeded, the requirements of the Sensitive Areas Code must be met, or a variance or exception granted as a condition of development within the sensitive area. There is no basis in policy or ordinance for the Department or the Examiner to eliminate or modify the requirements for a reasonable use exception on the basis that the thresholds for determining a sensitive area are exceeded by relatively small degrees.

#### CONCLUSIONS:

1. The application of the King County Sensitive Areas Code (Chapter 21A.24 KCC) would deny all reasonable use of the subject property unless an exception to the Code is granted pursuant to KCC 21A.24.070.
2. Development of the subject property with a single family residence, garage, parking area and driveway is a reasonable use of the property, and there is no other reasonable use with less impact on the steep slope sensitive area.
3. If developed in accordance with requirements of the King County Surface Water Design Manual, with construction and drainage plans approved by the Department of Development and Environmental Services, and with an onsite sewage disposal system, designed and constructed in accordance with the requirements of the King County Board of Health (with plans and construction approved by the King County Department of Public Health), the proposed development will not pose an unreasonable threat to the public health, safety or welfare on or off the site.
4. The alterations permitted to the steep slope sensitive area on the subject property are the minimum necessary to allow for reasonable use of the property. The mitigations recommended by the Department of Development and Environmental Services are necessary to assure that the

proposed development is consistent with the general purposes of the King County Sensitive Areas Code and the public interest.

DECISION:

APPROVE a Reasonable Use Exception from the King County Sensitive Areas Code to allow construction of a single family residence, garage, parking area and driveway on the subject property, subject to the following conditions:

1. A notice on title, to include a map delineating steep slopes subject to the Sensitive Areas Code, shall be prepared by the Applicant, approved by King County and recorded prior to approval of development.
2. Development on the site shall be in accord with the development plan submitted January 22, 1996, and special reports prepared October 16, 1995, October 31, 1995, and January 22, 1996, except as modified consistent with the conditions of this approval.
3. Geotechnical conditions:
  - a. Earth work and foundation construction shall occur during the period March through October. To the extent that such construction occurs during the months of March, September and October, wet season erosion control standards shall be followed.
  - b. Site drainage shall include sloping the driveway away from adjacent steep slopes and constructing a ditch along the up-slope edge of the driveway.
  - c. Dispersion trenches shall be located away from steep slopes in general accordance with the recommendations in the geotechnical report.
  - d. The uncontrolled fill placed on the steep slope at the lower of the two tight curves shall be removed or otherwise stabilized to minimize the potential for erosion and failure of the fill.
  - e. Rockeries shall be no more than 6 feet in height. Such rockeries shall include an up-slope drainage ditch with a low permeability lining to collect surface water. Such ditches shall drain into an approved dispersion system.
4. The Applicant shall provide a revegetation plan for review and approval by the geologic hazards reviewer at DDES prior to issuance of the permit. The plan shall address the areas of steep slopes and their buffers which will be disturbed during construction and remain following development, and shall provide mitigation to maintain the stability of those slopes in general accordance with the sensitive areas revegetation guidelines. The precise areas to be covered by the revegetation plan shall be approved by DDES, based upon plans submitted by the Applicant.
5. The steep slopes within the swale and any steep slopes greater than 20 feet in height and their buffers and setbacks shall be subject to the sensitive areas requirements of the Sensitive Areas Code, except to the extent specifically excepted to permit construction of the driveway, parking area, house and garage approved by this Reasonable Use Exception.
6. Final development plans, mitigation plans, and monitoring plans must be submitted and approved by LUSD's staff geologist prior to issuance of a building permit.
7. Prior to issuance of a building permit, a bond or security deposit to assure successful implementation of the mitigation plan shall be posted with the Department of Development and Environmental Services. The amount of the bond or deposit shall be determined by DDES and will be held for a three-year period following installation of required vegetation to ensure that the goals of the mitigation plan are met.
8. Surface water drainage plans for the proposed development shall include or be accompanied by a statement that a copy of the plans have been made available to the adjacent property owner to the south for review and comment. King County will not take final action on such plans until the lapse of at least 10 days from the date on which the plans were made available to the said

adjacent property owner for review, or until receipt of comments thereon from the adjacent property owner, whichever is earlier.

ORDERED this 12th day of April, 1996.

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James N. O'Connor  
King County Hearing Examiner

TRANSMITTED this 12th day of April, 1996, to the following parties and interested persons:

John Bunn	Dennis Joule
Michele Moellendorf	Robert N. Parnell
Joyce Schmieder	Lee Anderson
Roger Everett	Marian Claflin

Steve Bottheim, DDES/LUSD  
Lee Carte, DDES/LUSD  
Lisa Pringle, DDES/LUSD  
Karen Scharer, DDES/LUSD  
Don Gauthier, DDES/LUSD  
Nancy Brown, DDES, LUSD

The Examiner's decision shall be final and conclusive unless proceedings for review of the decision are properly commenced in Superior Court within twenty-one days of issuance of the decision.

MINUTES of the public hearing of JOHN BUNN, Department of Development and Environmental Services File No. L96RU001; April 8, 1996 public hearing.

James N. O'Connor was the Hearing Examiner for this matter.  
Participating in the hearing were Karen Scharer and Nancy Brown, representing the Land Use Services Division; Robert Parnell, Dennis Joule, Lee Anderson and Roger Everett.

The following exhibits were offered and entered into the record:

Exhibit No. 1	LUSD staff report
Exhibit No. 2	Application, submitted January 22, 1996
Exhibit No. 3	Justification, submitted January 22, 1996
Exhibit No. 4	Record of Review for Sensitive Areas
Exhibit No. 5	Assessor map 25-23-8
Exhibit No. 6	Site plat (4 pages)
Exhibit No. 7	Geotechnical report, dated January 22, 1996
Exhibit No. 8	Modified technical information report, dated October, 1995
Exhibit No. 9	Letter from Nancy Brown to Mr. Bunn, dated December 29, 1995
Exhibit No. 10	Letter from Nancy Brown, dated February 29, 1996
Exhibit No. 11	Affidavit of posting, received March 23, 1996
Exhibit No. 12	Letter from Joyce Schnieder, dated April 2, 1996
Exhibit No. 13	Letter from Joyce Schneider and Marian Claflin, dated April 1, 1996
Exhibit No. 14	Short plat map showing Bunns' Lot 4
Exhibit No. 15	Topographic survey map

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